

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

In re Sitagliptin Phosphate ('708 & '921) Patent Litigation	C.A. No. 19-md-2902-RGA
<div>MERCK SHARP &amp; DOHME CORP.,  <i>Plaintiff,</i>  v.  AUROBINDO PHARMA LIMITED and AUROBINDO PHARMA USA, INC.,  <i>Defendants.</i></div>	C.A. No. 20-1099-RGA

**STIPULATION AND [PROPOSED] ORDER REGARDING PLAINTIFF MERCK  
SHARP & DOHME CORP.'S FIRST AMENDED COMPLAINT**

WHEREAS, Merck Sharp & Dohme Corp. ("Merck") filed its Complaint in C.A. No. 20-1099-RGA against defendants Aurobindo Pharma USA Inc.'s and Aurobindo Pharma Ltd.'s (collectively, "Aurobindo") on August 21, 2020, alleging infringement of U.S Patent No. 7,326,708 ("the '708 patent") arising out of Aurobindo's submission of Abbreviated New Drug Application ("ANDA") No. 214859 to the U.S. Food and Drug Administration; and

WHEREAS, Merck seeks leave to amend its complaint in C.A. No. 20-1099-RGA to add allegations of infringement of U.S. Patent Nos. 8,414,921 under 35 U.S.C. § 271, and request for declaratory judgment of patent infringement under 28 U.S.C. §§ 2201 and 2202; and

WHEREAS, the Court's Order to Extend Time, (D.I. 39), set February 24, 2021, as the deadline for amendment to the pleadings; and

WHEREAS, Aurobindo does not oppose such amendments, which are reflected in the First Amended Complaint attached hereto as Exhibit A;

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and between the undersigned parties and subject to the Court's approval, that pursuant to the Court's Order to Extend Time, (D.I. 39), Fed. R. Civ. P.15(a), and D. Del. L.R. 15.1, and in the interests of judicial efficiency, the proposed First Amended Complaint attached hereto as Exhibit A shall be docketed by the Court as the First Amended Complaint and shall be deemed served upon filing. A form of the First Amended Complaint indicating in what respects it differs from the Complaint is attached as Exhibit B.

DATED: February 16, 2021

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*\*Admitted only in Michigan. Practice supervised by D.C. Bar members pursuant to D.C. Court of Appeals Rule 49(c)(8).*

*Attorneys for Plaintiff  
Merck Sharp & Dohme Corp.*

SO ORDERED this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

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United States District Judge